

SALE ANNOUNCEMENT

\$7,846,576+*

SAKS INCORPORATED LITIGATION SALE

INDICATIVE BID DATE: TUESDAY, FEBRUARY 1, 2022

FINAL BID DATE: TUESDAY, FEBRUARY 15, 2022



*Please refer to footnote on Page 2

Sale:	\$7,846,576+ Litigation Sale
Related Case:	Breach of Tenant Lease & Corporate Guaranty
Original Property Location:	Suburban Chicago

Overview Summary

\$7,846,576+* Litigation Sale (the “Asset Sale”) conducted by Mission Capital Advisors, LLC (“Asset Sale Advisor”) on behalf of a plaintiff (“Litigation Seller”). Mission Capital has been retained as the exclusive Asset Sale Advisor to the Litigation Seller for the sale of an anticipated judgment in excess of \$7,846,576* arising from ongoing litigation (the “Asset”).

Sale Structure

The Asset is being offered on a sealed bid basis. On behalf of the Litigation Seller, Mission Capital is initially soliciting indicative bids from prospective bidders (the “Prospective Bidders”) for the purchase of the Asset pursuant to the Asset Sale timeline attached hereto.

Mission Capital, in conjunction with the Litigation Seller, and at the sole and absolute discretion of the Litigation Seller, will then invite multiple final bidders (the “Final Bidders”) to the Final Bid round to complete due diligence and submit non-contingent bids for the Asset.

Highlights & Sale Summary

The Asset Sale offers Prospective Bidders the opportunity to acquire the anticipated judgment arising from the breach of a lease (“Lease”) by a tenant (“Tenant”), and the subsequent failure of Saks Incorporated (the “Guarantor”) to fulfill its obligations under a related corporate guaranty of the Lease obligations (the “Guaranty”).

Highlights of the opportunity include the following:

- A Lease was signed by Tenant and runs through January 31, 2024. Tenant breached the Lease by, among other things, rejecting the Lease in bankruptcy in or around August 30, 2018, and failing to pay amounts due after that date. Tenant’s Lease obligations were guaranteed by Guarantor. Guarantor has not paid and is therefore in breach of the Guaranty.
- Interest accrues at the statutory rate of 9.00%.
- The case is pending in Illinois state court.

• The Guaranty provides in relevant part that Guarantor is liable for the “full and prompt payment when due of all Basic Rent, additional rent and any and all other sums and charges payable by Tenant under the Lease, and the full, faithful and prompt performance and observance of all the covenants, terms, conditions and agreements therein provided to be performed and observed by Tenant (collectively, the ‘Obligations’); and Guarantor does hereby become surety to Landlord for and with respect to all of the Obligations.” The Guaranty also provides that it is “an absolute and unconditional guaranty of payment (and not of collection) and of performance and is a surety agreement.”

• In March 2020 the Court granted Plaintiff’s Motion for Partial Summary Judgment on liability, finding that Saks was liable to Plaintiff under the Guaranty. Guaranty provides that it is “an absolute and unconditional guaranty of payment (and not of collection) and of performance and is a surety agreement.”

• In August 2021, Plaintiff filed a further motion for partial summary judgment seeking a judgment on the damages that had accrued under the Lease/Guaranty through approximately June 30, 2021. The damages sought in the motion total \$7,846,575.92 and are continuing to accrue. Plaintiff’s damages include, among other things, Basic Rent, operating expenses, attorneys’ fees and costs, and interest.

• Litigation is ongoing. Plaintiff’s damages calculation includes basic rent, operating expenses, attorneys’ fees and costs and interest.

*Litigation Seller’s calculation of amounts due under the contracts at issue through approximately June 30, 2021. Litigation Seller believes that those amounts due will continue to accrue because, among other things, the Lease at issue requires Tenant to pay annual basic rent in the amount of \$1,899,405.00 through January 31, 2024.

Sale Process

Prospective Bidders are subject to qualification of by Mission Capital and/or Litigation Seller (qualification process will be initiated by Mission Capital as deemed necessary). Access to the Due Diligence Materials will be provided to Bidders solely at the discretion of Mission Capital and/or the Litigation Seller and may be withheld for any reason or no reason at all.

The Seller, in conjunction with Mission Capital, has prepared a comprehensive array of due diligence data (the "Due Diligence Materials"), which will be made available to Prospective Bidders that have executed, and are subject to the terms of, the Confidentiality Agreement (the "Confidentiality Agreement"), which can be accessed on the transaction offering email or by visiting www.missioncap.com/transactions. Included in the Due Diligence Materials will be comprehensive bidding instructions, the terms of sale and the Litigation Seller's required form of Agreement (the "Sale Agreement").

Mission Capital is initially soliciting indicative bids for the Asset. Prospective Bidders are encouraged to review the Due Diligence Materials and submit indicative bids in accordance with the proposed timeline.

After receipt of indicative bids, Mission Capital, in conjunction with the Litigation Seller, will select Final Bidders to complete final due diligence before submitting non-contingent offers on the Final Bid Date (the acceptance of which by Litigation Seller will require immediate execution of pre-negotiated Sale Agreement by Prospective Bidder accompanied by a 10% non-refundable wire funds deposit).

Additional information will be provided to Bidders via Mission Capital's online due diligence site, MissionMarket. Such information may include information located in the Court docket, including but not limited to the Lease, the Guaranty, Litigation docket documents, and other related documentation, in both computer file and imaged formats.

Please e-sign or return an executed Confidentiality Agreement to assetsales@missioncap.com. **PLEASE NOTE THAT UNMODIFIED E-SIGNED CONFIDENTIALITY AGREEMENTS WILL BE PROCESSED IN TOP PRIORITY, WHILE PROPOSED EDITS OF CONFIDENTIALITY AGREEMENTS ARE PROCESSED AT THE END OF EACH BUSINESS DAY AND STRONGLY DISCOURAGED.**

CERTAIN INFORMATION IS SUBJECT TO A CONFIDENTIALITY ORDER WHICH REQUIRES THE UNMODIFIED EXECUTION OF AN ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND. FOLLOWING EXECUTION OF THE CONFIDENTIALITY AGREEMENT.

All inquiries should be directed through Mission Capital. Neither the Litigation Seller or affiliates are to be contacted. Investors are required to strictly adhere to the terms of the Confidentiality Agreement.

Sale Agreement

The Litigation Seller will make its required form of Sale Agreement available to Prospective Bidders. Comments to the Sale Agreement are due prior to the final bid date. Pursuant to the Sale Agreement, the Litigation Seller is selling the Asset subject only to those covenants, representations and warranties explicitly stated in the Sale Agreement. No other covenants, representations or warranties, either expressed or implied, shall apply.

No obligation to sell shall be binding on Litigation Seller unless and until a Sale Agreement is signed and delivered by Litigation Seller and Litigation Seller has received the earnest money in accordance with the Sale Agreement.

Sale Timeline

The transaction contemplated herein has been scheduled as follows:

Sale Timeline	
Event	Date
Sale Announcement Distributed	Wednesday, January 12, 2022
Initial Data Distribution	Thursday, January 13, 2022
Indicative Bid Date	Tuesday, February 1, 2022
Best & Final Bid Date	Tuesday, February 15, 2022
Winning Bidder Selected	Wednesday, February 16, 2022
10% Non-Refundable Deposit	Thursday, February 17, 2022
Closing Date	Thursday, February 24, 2022

Disclaimer

NO OBLIGATION TO SELL SHALL BE BINDING ON LITIGATION SELLER UNLESS AND UNTIL A WRITTEN SALE AGREEMENT IS SIGNED AND DELIVERED BY LITIGATION SELLER. THE LITIGATION SELLER RESERVES THE RIGHT, AT ITS SOLE AND ABSOLUTE DISCRETION, TO WITHDRAW THE ASSET FROM THE ASSET SALE, AT ANY TIME. THIS SALE ANNOUNCEMENT HAS BEEN PREPARED TO ASSIST THE RECIPIENT IN DECIDING WHETHER TO PROCEED WITH FURTHER INVESTIGATION OF THE ASSET. WHILE THE INFORMATION INCLUDED HEREIN IS BELIEVED TO BE ACCURATE AND RELIABLE, LITIGATION SELLER, MISSION CAPITAL AND THEIR RESPECTIVE SUBSIDIARIES, AFFILIATES, AGENTS, ASSIGNEES, OFFICERS, TRUSTEES, DIRECTORS, SERVICERS AND EMPLOYEES MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION, INCLUDING BUT NOT LIMITED TO THE AMOUNT OF RECOVERABLE DAMAGES, THE CERTAINTY OF ANY DAMAGES RECOVERY, THE VALIDITY OR PRIORITY OF ANY LITIGATION, AND/OR THE VALUE OF ANY COLLATERAL. ONLY THOSE COVENANTS, REPRESENTATIONS AND WARRANTIES THAT ARE MADE BY THE LITIGATION SELLER TO A PROSPECTIVE BIDDER IN A DEFINITIVE, EXECUTED SALE AGREEMENT SHALL HAVE ANY LEGAL EFFECT.

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